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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,648	02/19/2004	Kelly Libby	2331-001	2184

27522 7590 07/27/2006

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EXAMINER

LUKS, JEREMY AUSTIN

ART UNIT	PAPER NUMBER
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2837

DATE MAILED: 07/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/780,648		LIBBY, KELLY	
	Examiner		Art Unit	
	Jeremy Luks		2837	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>3/17/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Canada on 1/21/2004. It is noted, however, that applicant has not filed a certified copy of the Canadian application as required by 35 U.S.C. 119(b).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hedrick (2,150,768) in view of MacKenzie (2,065,232).

With respect to Claims 1-4, 7-10, 15-17 and 19 Hedrick teaches a plurality of anti-reversionary devices (Figures 2 and 3) adapted to an exhaust conduit fit adjacent to an engine (Col. 2, Lines 33-35), having a bore through which gas flow to an internal combustion engine, comprising an inner pipe (Figure 1, #16) positioned substantially concentrically and co-axially within the bore of the conduit (10), a cylindrical housing (18) adapted to fit to the bore of the conduit (10) and an annular wall (15) extending to fit between the pipe (16) and the cylindrical housing (18), the annular wall (15) having a plurality of ports (Figure 2, #17) formed therein and about the inner pipe (Figure 1, #16), each port (17) forming a passage directed radially inward and downstream and wherein

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the inner pipe (16) has a tubular gas inlet projecting upstream from the annular wall (15) so that the annular wall (15) separates the gas flow into an annular gas flow and a central gas flow, the central gas flow being faster than the annular gas flow at the tubular gas inlet, and the annular gas flow accelerates through the plurality of passages (17) for directed discharge into the central gas flow (Col. 1, Line 34-Col. 2, Line 9).

Hendrick fails to teach wherein the annular wall is a truncated cone, which is angled downstream from the inner pipe to the conduit. MacKenzie teaches a muffler (Figure 2) having an annular wall (67) is a truncated cone, which is angled downstream from an inner pipe (52) to a conduit (50), and where the conduit is an intake to an internal combustion engine. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the apparatus of Hedrick, with the apparatus of MacKenzie to better divert the gases to the annular and central passages, alleviating backpressure. Mackenzie fails to teach where the conduit is an intake to an internal combustion engine. However, Official Notice is taken that it is well known in the art that silencing devices and methods in internal combustion engines are interchangeably used with respect to the intake and exhaust ends of the flow path.

With respect to Claims 5-6, 13-14, 18 and 20, Hedrick and MacKenzie are relied upon for the reasons and disclosures set forth above. Hedrick and MacKenzie fail to teach wherein the passages are angled radially inward between 20 and 30 degrees. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to angle the passages radially inward between 20 and 30 degrees, since it has been held that where the general conditions of a claim are disclosed in the

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prior art, discovering the optimum or working range or value involves only routine skill in the art. In re Aller, 105 USPQ 233. In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

With respect to Claims 11 and 12, Hedrick teaches wherein the housing (Figure 1, #18), annular wall (15) and inner pipe (16) are formed from a sheet material, having a wall thickness, which forms the passage (Figures 1 and 2, #17) through the annular wall (15). Further, the method of forming a device is not germane to the issue of patentability of the device itself. Therefore, this limitation has been given little patentable weight.

Conclusion

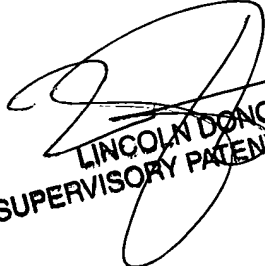
3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pertinent arts of record relating to anti-reversion apparatuses are disclosed in the PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeremy Luks whose telephone number is (571) 272-2707. The examiner can normally be reached on Monday-Thursday 8:30-6:00, and alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lincoln Donovan can be reached on (571) 272-1988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jeremy Luks
Patent Examiner
Art Unit 2837



LINCOLN DONOVAN
SUPERVISORY PATENT EXAMINER